

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DEANNA MARLENE BELLAVIA aka  
DEANNA KING,

Plaintiff,

vs.

ORLEANS COUNTY, ORLEANS COUNTY SHERIFF'S  
DEPARTMENT, ORLEANS COUNTY DISTRICT  
ATTORNEY, COREY BLACK, DEPUTY JOHN DOE, and  
DAVID BELLAVIA,

Defendant.

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**NOTICE OF MOTION**

**Case No.: 22-CV-842**

Defendant, David Bellavia ("Mr. Bellavia"), hereby moves this Court for an order dismissing the Complaint as against him and for an order striking paragraphs "11" through "17" and "18 through "28" of the Complaint.

**RELIEF SOUGHT:**

1. Dismissal of complaint as against Mr. Bellavia pursuant to Fed. R. Civ. P. 12(b)(6) because the Complaint fails to state a cause of action upon which relief can be granted; or, if such relief is not granted,
2. An order striking Paragraphs "11" through "17" and "18 through "28" of the Complaint pursuant to Fed. R. Civ. P. 12(f), because those paragraphs are scandalous, unnecessary and highly prejudicial and are in contravention of the parties' Judgment of Divorce, dated December 28, 2021 and written Custody, Support and Property Settlement Agreement filed December 7, 2021.

**PAPERS SUBMITTED:**

Memorandum of Law dated December 22, 2022 and the Bellavia's Judgment of Divorce, dated December 28, 2021 and written Custody, Support and Property

Settlement Agreement filed December 7, 2021, and associated protective orders.

**REPLY PAPERS:**

Pursuant to Rule 7(b)(2)(B) of the Local Rules of Civil Procedure for the Western District of New York, Plaintiff shall file and serve Responding papers fourteen (14) days after service of this motion; Defendant, Mr. Bellavia intends to serve Reply papers seven (7) days after service of the Plaintiff's Responding papers.

**LOCATION:**

United States District Court for the Western District of New York, 2 Niagara Square, Buffalo, New York, 14202-8154

Dated: December 22, 2022  
Rochester, New York

**WOODS OVIATT GILMAN LLP**

By: /s/ Donald W. O'Brien  
Donald W. O'Brien, Jr., Esq.  
*Attorneys for Defendant*  
*David Bellavia*  
1900 Bausch & Lomb Place  
Rochester, New York 14604  
585.987.2800  
[dobrien@woodsoviatt.com](mailto:dobrien@woodsoviatt.com)

William F. Savino, Esq.  
*Attorneys for Defendant*  
*David Bellavia*  
1900 Main Place Tower  
350 Main Street  
Buffalo, New York 14202  
[wsavino@woodsoviatt.com](mailto:wsavino@woodsoviatt.com)

To: Nathan McMurray, Esq.  
Advocates for Justice,  
Chartered Attorneys  
225 Broadway, Suite 225  
New York, New York 10007  
212.285.1400  
[aschwartz@afjlaw.com](mailto:aschwartz@afjlaw.com)

